

# Michael Faillace & Associates, P.C.

Employment and Litigation Attorneys

60 E. 42<sup>nd</sup> Street, Suite 2020  
New York, New York 10165

Telephone: (212) 317-1200  
Facsimile: (212) 317-1620

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gnaydenskiy@faillacelaw.com

November 12, 2019

**BY ECF**

Hon. Lois Bloom  
United States Magistrate Judge  
United States District Court  
Eastern District of New York  
225 Cadman Plaza  
Brooklyn, NY 11201

Re: **Osorno v. Avant Gardner LLC, et al.**  
*Case No. 18-CV-1513 (AMD) (LB)*

Your Honor:

I am an attorney with Michael Faillace & Associates, P.C., attorneys for Plaintiffs in the above-referenced matter. In accordance with Your Honor's September 27, 2019 Order, attached as Exhibit A is the parties revised settlement agreement<sup>1</sup>.

We thank you for your attention to this matter.

Respectfully Submitted,

*/s/ Gennadiy Naydenskiy*  
Gennadiy Naydenskiy, Esq.  
MICHAEL FAILLACE & ASSOCIATES, P.C.  
*Attorneys for Plaintiff*

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<sup>1</sup> We are still in the process of retrieving invoices from the process servers. We anticipate to ecf file the receipts by November 13, 2019.

# **EXHIBIT A**

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

ARTURO OSORNO, JOSE MANUEL  
PASTRANA, FERNANDO PEREZ GARCIA,  
and SAMUEL LOPEZ MONTALVO,  
*individually and on behalf of others similarly  
situated,*

Plaintiffs,

-against-

AVANT GARDNER LLC. (D/B/A  
BROOKLYN MIRAGE), AGDP HOLDING,  
INC. (F.K.A AVANT GARDNER MGMT, INC.  
d/b/a BROOKLYN MIRAGE), A&N STAFFING  
LLC (d/b/a A&N STAFFING), BENJAMIN  
ROSHIA, ANTONIO BARCENES and  
STANISLAV CHIJK,

*Defendants.*

**18-cv-1513-AMD-LB**

**SETTLEMENT AGREEMENT  
AND  
RELEASE**

This Settlement Agreement and Release of Claims ("Agreement") is entered into by and among Plaintiffs Arturo Osorno, Jose Manuel Pastrana, Fernando Perez Garcia, and, Samuel Lopez Montalvo ("Plaintiffs") on the one hand, Avant Gardner LLC (d/b/a Brooklyn Mirage"), and AGDP Holding, Inc. formerly known as Avant Gardner Mgmt. Inc. and together with Avant Gardner LLC, (collectively known as "Avant Gardner" or "Defendant Corporation"), Benjamin Roshia, and Stanislav Chijk ("Individual Defendants") and together with Avant Gardner, collectively the "Defendants", on the other hand.

WHEREAS, Plaintiffs allege that they worked for Defendants as employees; and

WHEREAS, a dispute has arisen regarding Plaintiffs' alleged employment and the terms thereof, which dispute has resulted in the filing of an action in the United States District Court for the Eastern District of New York, Civil Action No: 18-cv-1513 (hereinafter "the Litigation"), alleging, among other things, a violation of federal and state wage and hour and overtime laws;

WHEREAS, Defendants deny any violation of federal and state wage and hour and overtime laws; and

WHEREAS, the parties desire to resolve all disputes between them without the necessity of further litigation;

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained and other good and valuable consideration, receipt of which is hereby acknowledged, it is hereby agreed as follows:

1. **Payment:** Defendant Avant Gardner shall pay on behalf of all Defendants or cause to be paid to Plaintiffs and their counsel, subject to the terms and conditions of this Agreement, the gross sum of Twenty-Two Thousand Dollars and No Cents (\$22,000.00) (the "Settlement Amount"), within thirty (30) days of approval of this Agreement by the Court, or any order modifying and entering this Agreement, payable as follow:

Arturo Osorno	\$1,332.50
Jose Manuel Pastrana	\$ 1,654.26
Fernando Perez Garcia	\$ 1,550.88
Samuel Lopez Montalvo	\$10,916.54
Michael Faillace & Associates, Attorneys' Fees and Costs	\$6,545.84

(a) The payment set forth above in this Paragraph shall be delivered to the office of Michael Faillace & Associates, P.C. to the attention of Michael Faillace, Esq., at One Grand Central Place, 60 East 42nd Street, Suite 4510, New York, NY 10165. The Taxpayer Identification Number for Michael Faillace and Associates, P.C. is 20-1211098.

(c) Plaintiffs shall be solely responsible for any taxes resulting from payments received under the Agreement, and in the event of an audit of Defendants by any taxing authority regarding payments to any Plaintiffs in this Agreement, such Plaintiffs shall indemnify and hold each of the Defendants harmless to the fullest extent permitted by law, including the payment of any damages, penalties, interest, attorneys' fees and/or judgments that may be incurred by Defendants resulting from payments under this Agreement.

2. **Release and Covenant Not To Sue:** Plaintiffs hereby irrevocably and unconditionally release from and forever discharge and covenant not to sue Defendants, A&N STAFFING LLC (d/b/a A&N STAFFING), Antonio Barcenes, Juergen Bildstein and Philipp Wiederkehr (collectively the "Releasees"), and for each of them, their heirs, successors, assigns, affiliates, parent organizations, subsidiaries, directors, owners, shareholders, members, agents, attorneys, legal representatives and managers, in their respective capacity as such, any and all charges, complaints, claims, causes of action, suits, debts, liens, contracts, rights, demands, controversies, losses, costs and or expenses, including legal fees and any other liabilities of any kind or nature whatsoever, known or unknown, suspected or unsuspected, whether fixed or contingent (hereinafter referred to as "claim" or "claims") which each Plaintiff at any time has, had, or may have had claims or claimed to have had against Releasees from the beginning of time to the Effective Date of this Agreement relating to their employment with Releasees and specifically to the claims in the Litigation including but not limited to the Fair Labor Standards

Act 29 U.S.C. § 201, et. seq., New York State Labor Law §§ 191, 193, 196-d, 198-b, 650, et. seq., 652, and 663 and relevant sections of N.Y. Comp. Codes R. & Regs, New York City Labor Law, liquidated damages, compensatory damages, punitive damages, wages, tips, penalties of any nature whatsoever that have occurred as of the Effective Date of this Agreement.

**3. Full Settlement and Release.** Plaintiffs represent and acknowledge that the amounts set forth in paragraph 1 above represent fair consideration for the Plaintiffs' releases and other obligations under this Agreement, and Plaintiffs specifically acknowledge that upon receipt of the sums set forth in paragraph 1 hereof, Plaintiffs are not entitled to any additional payment for wages or other compensation from Defendants.

**4. No Admission of Wrongdoing:** This Agreement and compliance with this Agreement shall not be construed as an admission by Defendants of any liability whatsoever, or of any violation of any statute, regulation, duty, contract, right or order.

**5. No Future Employment:** It is agreed that the employee-employer relationship between Plaintiffs and Defendants ended for reasons unrelated to any federal, state, or municipal statute or any cause of action Plaintiffs, or any of them have or may have had against Defendants. It is further understood should Plaintiffs, or any of them, again apply to work for Defendants, in any capacity, Defendants, based on this clause, may deny such Plaintiffs employment for any position such Plaintiffs seeks, and that Plaintiffs will not assert that such denial is a violation of any federal, state or municipal statute and/or common law right or is retaliatory in any way. Accordingly, it is agreed that none of the Plaintiffs will knowingly seek employment with Defendants after the execution of this Agreement.

**6. Modification of the Agreement:** This Agreement may not be changed unless the changes are in writing and signed by a proper representative of Plaintiffs and Defendants.

**7. Acknowledgment:** It is further understood and agreed that the sum of \$22,000.00 and the other good and valuable consideration provided for herein, are not a mere recital but are the consideration for this Agreement and all terms herein, and the full and final release effected thereby. Plaintiffs hereby represent and warrant that they entered into this Agreement of their own free will and accord, and in accordance with their own judgment. Plaintiffs further acknowledge that they have been fully and fairly represented by counsel in this matter. Plaintiffs, after consultation with their attorney, Michael Faillace, Esq. of Michael Faillace & Associates P.C., hereby state that they and their counsel have made a full and independent investigation of all the facts and representations relating to this Agreement, and therefore state that they have not been induced to enter into this Agreement by any statement, fact or representation of any kind or character on the part of Defendants, or on the part of Defendants' agents, attorneys, servants, employees or representatives other than those specifically set forth herein. Plaintiffs specifically acknowledge that the parties jointly prepared this Agreement and that they are executing this Agreement knowingly and voluntarily.

Plaintiffs further confirm that this Settlement Agreement and Release has been translated to them in Spanish and that they understand the terms of this Agreement and that they are signing this Agreement voluntarily. YO RECONOZCO QUE ESTE CONTRATO HA SIDO TRADUCIDO EN ESPANOL, MI PRIMER LENGUAJE

8. **Notices:** Notices required under this Agreement shall be in writing and shall be deemed given on the first business day following first-class mailing and electronic transmission thereof. Notice hereunder shall be delivered to:

To Plaintiffs:

Michael Faillace, Esq.  
**MICHAEL FAILLACE & ASSOCIATES, P.C.**  
60 East 42<sup>nd</sup> St. Suite 4510  
New York, NY 10165  
Tel: (212) 317-1200  
Fax: (212) 317-1620  
Email: michael@faillacelaw.com

To Defendants:

Mark E. Spund  
Davidoff Hutcher & Citron LLP  
200 Garden City Plaza, Suite 315  
Garden City, NY 11530  
Tel: 516-248-6400  
Fax: 516-248-6422  
Email: mes@dmlegal.com

9. **Governing Law and Venue:** This Agreement shall be governed by, and interpreted in accordance with, the laws of the State of New York, excluding the conflict-of-laws principles thereof. The parties consent and stipulate to the personal jurisdiction of the United States District Court for the Eastern District of New York in any subsequent proceeding to enforce this Agreement.

10. **Enforceability:** If any provision of this Agreement is held to be illegal, void, or unenforceable, such provision shall be of no force or effect. However, the illegality or unenforceability of such provision shall have no effect upon, and shall not impair the legality or enforceability of, any other provision of this Agreement, provided, however, that upon any finding by a court of competent jurisdiction that a release or waiver of claims or rights or a covenant set forth herein is illegal, void or unenforceable, Plaintiffs agree to promptly execute a release, waiver and/or covenant that is legal and enforceable..

11. **Counterparts:** To signify their agreement to the terms of this Agreement and Release, the parties have executed this Agreement on the date set forth opposite their signatures, which appear below. This Agreement may be executed in two or more counterparts and each of such counterparts, for all purposes, shall be deemed to be an original but all of such counterparts together shall constitute but one and the same instrument, binding upon all parties

hereto, notwithstanding that all of such parties may not have executed the same counterpart. This agreement may also be executed by facsimile transmission.

PLAINTIFFS:

By: \_\_\_\_\_

Date: \_\_\_\_\_

**ARTURO OSORNO**

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

By: \_\_\_\_\_

Date: \_\_\_\_\_

**JOSE MANUEL PASTRANA**

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

By: \_\_\_\_\_

Date: \_\_\_\_\_

**FERNANDO PEREZ GARCIA**

STATE OF NEW YORK      )  
                              )SS.:  
COUNTY OF                )

On \_\_\_\_, 2019 before me personally came to me Fernando Perez Garcia known and known to me to be the individual described in, and who executed the foregoing Settlement Agreement and General Release, and duly acknowledged to me that he executed the same.

\_\_\_\_\_  
**Notary Public**

By: \_\_\_\_\_

Date: \_\_\_\_\_

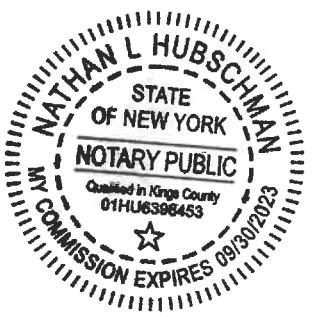
**SAMUEL LOPEZ MONTALVO**

STATE OF NEW YORK      )  
                              )SS.:  
COUNTY OF                )

On \_\_\_\_, 2019 before me personally came to me Samuel Lopez Montalvo known and known to me to be the individual described in, and who executed the foregoing Settlement Agreement and

General Release, and duly acknowledged to me that he executed the same.

  
Notary Public



DEFENDANTS:

By:   
AVANT GARDNER LLC.

STATE OF NEW YORK )  
                        )SS.:  
COUNTY OF             )

On 11/5, 2019 before me personally came to me \_\_\_\_\_ known and known to me to be the individual described in, and who executed the foregoing Settlement Agreement and General Release, on behalf of AVANT GARDNER LLC and duly acknowledged to me that he executed the same.

Date: 11/5/19

Notary Public

By:   
AGDP HOLDING INC..

STATE OF NEW YORK      )  
                        )SS.:  
COUNTY OF                )

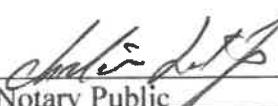
On \_\_\_\_\_, 2019 before me personally came to me \_\_\_\_\_ known and known to me to be the individual described in, and who executed the foregoing Settlement Agreement and General Release, on behalf of AGDP HOLDING, INC. and duly acknowledged to me that he executed the same.

  
Date: 11/5/19



By:   
BENJAMIN ROSHIA

STATE OF NEW YORK      )  
                        )SS.:  
COUNTY OF                )

  
Notary Public  
LOTFI CHORTANI  
Notary Public - State of New York  
No. 01CH6394646  
Qualified In Queens County  
My Comm. Expires July 8, 2023  
Date: 10/29/19

On \_\_\_, 2019 before me personally came to me Benjamin Roshia known and known to me to be the individual described in, and who executed the foregoing Settlement Agreement and General Release, and duly acknowledged to me that he executed the same.

By:

  
STANISLAV CHIJK



Date: 10/24/19

STATE OF NEW YORK      )  
                                )  
COUNTY OF                 )

On \_\_\_, 2019 before me personally came to me Stanislav Chuik known and known to me to be the individual described in, and who executed the foregoing Settlement Agreement and General Release, and duly acknowledged to me that he executed the same.



**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

ARTURO OSORNO, JOSE MANUEL  
PASTRANA, FERNANDO PEREZ GARCIA,  
and SAMUEL LOPEZ MONTALVO,  
*individually and on behalf of others similarly  
situated,*

Plaintiffs,

-against-

AVANT GARDNER LLC. (D/B/A  
BROOKLYN MIRAGE), AGDP HOLDING,  
INC. (F.K.A AVANT GARDNER MGMT, INC.  
d/b/a BROOKLYN MIRAGE), A&N STAFFING  
LLC (d/b/a A&N STAFFING), BENJAMIN  
ROSHIA, ANTONIO BARCENES and  
STANISLAV CHIJK,

*Defendants.*

**18-cv-1513-AMD-LB**

**SETTLEMENT AGREEMENT  
AND  
RELEASE**

This Settlement Agreement and Release of Claims ("Agreement") is entered into by and among Plaintiffs Arturo Osorno, Jose Manuel Pastrana, Fernando Perez Garcia, and, Samuel Lopez Montalvo ("Plaintiffs") on the one hand, Avant Gardner LLC (d/b/a Brooklyn Mirage"). and AGDP Holding, Inc. formerly known as Avant Gardner Mgmt. Inc. and together with Avant Gardner LLC, (collectively known as "Avant Gardner" or "Defendant Corporation"), Benjamin Roshia, and Stanislav Chijk ("Individual Defendants") and together with Avant Gardner, collectively the "Defendants", on the other hand.

WHEREAS, Plaintiffs allege that they worked for Defendants as employees; and

WHEREAS, a dispute has arisen regarding Plaintiffs' alleged employment and the terms thereof, which dispute has resulted in the filing of an action in the United States District Court for the Eastern District of New York, Civil Action No: 18-cv-1513 (hereinafter "the Litigation"), alleging, among other things, a violation of federal and state wage and hour and overtime laws;

WHEREAS, Defendants deny any violation of federal and state wage and hour and overtime laws; and

WHEREAS, the parties desire to resolve all disputes between them without the necessity of further litigation;

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained and other good and valuable consideration, receipt of which is hereby acknowledged, it is hereby agreed as follows:

1. **Payment:** Defendant Avant Gardner shall pay on behalf of all Defendants or cause to be paid to Plaintiffs and their counsel, subject to the terms and conditions of this Agreement, the gross sum of Twenty-Two Thousand Dollars and No Cents (\$22,000.00) (the "Settlement Amount"), within thirty (30) days of approval of this Agreement by the Court, or any order modifying and entering this Agreement, payable as follow:

Arturo Osorno	\$1,332.50
Jose Manuel Pastrana	\$ 1,654.26
Fernando Perez Garcia	\$ 1,550.88
Samuel Lopez Montalvo	\$10,916.54
Michael Faillace & Associates, Attorneys' Fees and Costs	\$6,545.84

(a) The payment set forth above in this Paragraph shall be delivered to the office of Michael Faillace & Associates, P.C. to the attention of Michael Faillace, Esq., at One Grand Central Place, 60 East 42nd Street, Suite 4510, New York, NY 10165. The Taxpayer Identification Number for Michael Faillace and Associates, P.C. is 20-1211098.

(c) Plaintiffs shall be solely responsible for any taxes resulting from payments received under the Agreement, and in the event of an audit of Defendants by any taxing authority regarding payments to any Plaintiffs in this Agreement, such Plaintiffs shall indemnify and hold each of the Defendants harmless to the fullest extent permitted by law, including the payment of any damages, penalties, interest, attorneys' fees and/or judgments that may be incurred by Defendants resulting from payments under this Agreement.

2. **Release and Covenant Not To Sue:** Plaintiffs hereby irrevocably and unconditionally release from and forever discharge and covenant not to sue Defendants, A&N STAFFING LLC (d/b/a A&N STAFFING), Antonio Barcenes, Juergen Bildstein and Philipp Wiederkehr (collectively the "Releasees"), and for each of them, their heirs, successors, assigns, affiliates, parent organizations, subsidiaries, directors, owners, shareholders, members, agents, attorneys, legal representatives and managers, in their respective capacity as such, any and all charges, complaints, claims, causes of action, suits, debts, liens, contracts, rights, demands, controversies, losses, costs and or expenses, including legal fees and any other liabilities of any kind or nature whatsoever, known or unknown, suspected or unsuspected, whether fixed or contingent (hereinafter referred to as "claim" or "claims") which each Plaintiff at any time has, had, or may have had claims or claimed to have had against Releasees from the beginning of time to the Effective Date of this Agreement relating to their employment with Releasees and specifically to the claims in the Litigation including but not limited to the Fair Labor Standards

Act 29 U.S.C. § 201, et. seq., New York State Labor Law §§ 191, 193, 196-d, 198-b, 650, et. seq., 652, and 663 and relevant sections of N.Y. Comp. Codes R. & Regs, New York City Labor Law, liquidated damages, compensatory damages, punitive damages, wages, tips, penalties of any nature whatsoever that have occurred as of the Effective Date of this Agreement.

**3. Full Settlement and Release.** Plaintiffs represent and acknowledge that the amounts set forth in paragraph 1 above represent fair consideration for the Plaintiffs' releases and other obligations under this Agreement, and Plaintiffs specifically acknowledge that upon receipt of the sums set forth in paragraph 1 hereof, Plaintiffs are not entitled to any additional payment for wages or other compensation from Defendants.

**4. No Admission of Wrongdoing:** This Agreement and compliance with this Agreement shall not be construed as an admission by Defendants of any liability whatsoever, or of any violation of any statute, regulation, duty, contract, right or order.

**5. No Future Employment:** It is agreed that the employee-employer relationship between Plaintiffs and Defendants ended for reasons unrelated to any federal, state, or municipal statute or any cause of action Plaintiffs, or any of them have or may have had against Defendants. It is further understood should Plaintiffs, or any of them, again apply to work for Defendants, in any capacity, Defendants, based on this clause, may deny such Plaintiffs employment for any position such Plaintiffs seeks, and that Plaintiffs will not assert that such denial is a violation of any federal, state or municipal statute and/or common law right or is retaliatory in any way. Accordingly, it is agreed that none of the Plaintiffs will knowingly seek employment with Defendants after the execution of this Agreement.

**6. Modification of the Agreement:** This Agreement may not be changed unless the changes are in writing and signed by a proper representative of Plaintiffs and Defendants.

**7. Acknowledgment:** It is further understood and agreed that the sum of \$22,000.00 and the other good and valuable consideration provided for herein, are not a mere recital but are the consideration for this Agreement and all terms herein, and the full and final release effected thereby. Plaintiffs hereby represent and warrant that they entered into this Agreement of their own free will and accord, and in accordance with their own judgment. Plaintiffs further acknowledge that they have been fully and fairly represented by counsel in this matter. Plaintiffs, after consultation with their attorney, Michael Faillace, Esq. of Michael Faillace & Associates P.C., hereby state that they and their counsel have made a full and independent investigation of all the facts and representations relating to this Agreement, and therefore state that they have not been induced to enter into this Agreement by any statement, fact or representation of any kind or character on the part of Defendants, or on the part of Defendants' agents, attorneys, servants, employees or representatives other than those specifically set forth herein. Plaintiffs specifically acknowledge that the parties jointly prepared this Agreement and that they are executing this Agreement knowingly and voluntarily.

Plaintiffs further confirm that this Settlement Agreement and Release has been translated to them in Spanish and that they understand the terms of this Agreement and that they are signing this Agreement voluntarily. YO RECONOZCO QUE ESTE CONTRATO HA SIDO TRADUCIDO EN ESPANOL, MI PRIMER LENGUAJE

8. **Notices:** Notices required under this Agreement shall be in writing and shall be deemed given on the first business day following first-class mailing and electronic transmission thereof. Notice hereunder shall be delivered to:

To Plaintiffs:

Michael Faillace, Esq.  
**MICHAEL FAILLACE & ASSOCIATES, P.C.**  
60 East 42<sup>nd</sup> St. Suite 4510  
New York, NY 10165  
Tel: (212) 317-1200  
Fax: (212) 317-1620  
Email: michael@faillacelaw.com

To Defendants:

Mark E. Spund  
Davidoff Hutcher & Citron LLP  
200 Garden City Plaza, Suite 315  
Garden City, NY 11530  
Tel: 516-248-6400  
Fax: 516-248-6422  
Email: mes@dmlegal.com

9. **Governing Law and Venue:** This Agreement shall be governed by, and interpreted in accordance with, the laws of the State of New York, excluding the conflict-of-laws principles thereof. The parties consent and stipulate to the personal jurisdiction of the United States District Court for the Eastern District of New York in any subsequent proceeding to enforce this Agreement.

10. **Enforceability:** If any provision of this Agreement is held to be illegal, void, or unenforceable, such provision shall be of no force or effect. However, the illegality or unenforceability of such provision shall have no effect upon, and shall not impair the legality or enforceability of, any other provision of this Agreement, provided, however, that upon any finding by a court of competent jurisdiction that a release or waiver of claims or rights or a covenant set forth herein is illegal, void or unenforceable, Plaintiffs agree to promptly execute a release, waiver and/or covenant that is legal and enforceable..

11. **Counterparts:** To signify their agreement to the terms of this Agreement and Release, the parties have executed this Agreement on the date set forth opposite their signatures, which appear below. This Agreement may be executed in two or more counterparts and each of such counterparts, for all purposes, shall be deemed to be an original but all of such counterparts together shall constitute but one and the same instrument, binding upon all parties

hereto, notwithstanding that all of such parties may not have executed the same counterpart. This agreement may also be executed by facsimile transmission.

PLAINTIFFS:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
ARTURO OSORNO

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

By: Jose Manuel Pastrana  
JOSE MANUEL PASTRANA

Date: Nov 6, 2019

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

By: Fernando Perez Garcia  
FERNANDO PEREZ GARCIA

Date: 11/11/19

STATE OF NEW YORK )  
                        )SS.:  
COUNTY OF             )

On \_\_\_, 2019 before me personally came to me Fernando Perez Garcia known and known to me to be the individual described in, and who executed the foregoing Settlement Agreement and General Release, and duly acknowledged to me that he executed the same.

NOTARY PUBLIC-STATE OF NEW YORK  
No. 02FA6120964  
Qualified in New York County  
My Commission Expires January 03, 2021

  
\_\_\_\_\_  
Notary Public

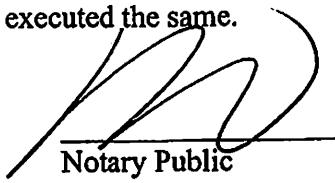
By: Samuel Lopez Montalvo

Date: 10/30/19

STATE OF NEW YORK      )  
                            )SS.:  
COUNTY OF                )

On 10/30 2019 before me personally came to me Samuel Lopez Montalvo known and known to me to be the individual described in, and who executed the foregoing Settlement Agreement and

General Release, and duly acknowledged to me that he executed the same.



Notary Public

**YOLANDA RIVERO  
NOTARY PUBLIC STATE OF NEW YORK  
NO. 02R16061584  
QUALIFIED IN QUEENS COUNTY  
COMMISSION EXPIRES JULY 16, 2023  
DEFENDANTS:**

By: \_\_\_\_\_  
AVANT GARDNER LLC.

Date: \_\_\_\_\_

STATE OF NEW YORK )  
 )SS.:  
COUNTY OF )

On \_\_\_\_\_, 2019 before me personally came to me \_\_\_\_\_ known and known to me to be the individual described in, and who executed the foregoing Settlement Agreement and General Release, on behalf of AVANT GARDNER LLC and duly acknowledged to me that he executed the same.

Notary Public

By: \_\_\_\_\_  
AGDP HOLDING INC..

Date: \_\_\_\_\_

STATE OF NEW YORK )  
 )SS.:  
COUNTY OF )

On \_\_\_\_\_, 2019 before me personally came to me \_\_\_\_\_ known and known to me to be the individual described in, and who executed the foregoing Settlement Agreement and General Release, on behalf of AGDP HOLDING, INC. and duly acknowledged to me that he executed the same.

Notary Public

By: \_\_\_\_\_  
BENJAMIN ROSHIA

Date: \_\_\_\_\_

STATE OF NEW YORK )  
 )SS.:  
COUNTY OF )

On \_\_\_\_, 2019 before me personally came to me Benjamin Roshia known and known to me to be the individual described in, and who executed the foregoing Settlement Agreement and General Release, and duly acknowledged to me that he executed the same.

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Notary Public

By: \_\_\_\_\_  
STANISLAV CHIJK

Date: \_\_\_\_\_

STATE OF NEW YORK      )  
                                )SS.:  
COUNTY OF                 )

On \_\_\_\_, 2019 before me personally came to me Stanislav Chuik known and known to me to be the individual described in, and who executed the foregoing Settlement Agreement and General Release, and duly acknowledged to me that he executed the same.

---

Notary Public

Signature:   
Jose Manuel Pastrana, Notary Public Nov 6, 2019

Email: pastranamanuel426@gmail.com

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

ARTURO OSORNO, JOSE MANUEL  
PASTRANA, FERNANDO PEREZ GARCIA,  
and SAMUEL LOPEZ MONTALVO,  
*individually and on behalf of others similarly  
situated,*

Plaintiffs,

-against-

AVANT GARDNER LLC. (D/B/A  
BROOKLYN MIRAGE), AGDP HOLDING,  
INC. (F.K.A AVANT GARDNER MGMT, INC.  
d/b/a BROOKLYN MIRAGE), A&N STAFFING  
LLC (d/b/a A&N STAFFING), BENJAMIN  
ROSHIA, ANTONIO BARCENES and  
STANISLAV CHIJK,

*Defendants.*

**18-cv-1513-AMD-LB**

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AND  
RELEASE**

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Fernando Perez Garcia	\$ 1,550.88
Samuel Lopez Montalvo	\$10,916.54
Michael Faillace & Associates, Attorneys' Fees and Costs	\$6,545.84

(a) The payment set forth above in this Paragraph shall be delivered to the office of Michael Faillace & Associates, P.C. to the attention of Michael Faillace, Esq., at One Grand Central Place, 60 East 42nd Street, Suite 4510, New York, NY 10165. The Taxpayer Identification Number for Michael Faillace and Associates, P.C. is 20-1211098.

(c) Plaintiffs shall be solely responsible for any taxes resulting from payments received under the Agreement, and in the event of an audit of Defendants by any taxing authority regarding payments to any Plaintiffs in this Agreement, such Plaintiffs shall indemnify and hold each of the Defendants harmless to the fullest extent permitted by law, including the payment of any damages, penalties, interest, attorneys' fees and/or judgments that may be incurred by Defendants resulting from payments under this Agreement.

2. **Release and Covenant Not To Sue:** Plaintiffs hereby irrevocably and unconditionally release from and forever discharge and covenant not to sue Defendants, A&N STAFFING LLC (d/b/a A&N STAFFING), Antonio Barcenes, Juergen Bildstein and Philipp Wiederkehr (collectively the "Releasees"), and for each of them, their heirs, successors, assigns, affiliates, parent organizations, subsidiaries, directors, owners, shareholders, members, agents, attorneys, legal representatives and managers, in their respective capacity as such, any and all charges, complaints, claims, causes of action, suits, debts, liens, contracts, rights, demands, controversies, losses, costs and or expenses, including legal fees and any other liabilities of any kind or nature whatsoever, known or unknown, suspected or unsuspected, whether fixed or contingent (hereinafter referred to as "claim" or "claims") which each Plaintiff at any time has, had, or may have had claims or claimed to have had against Releasees from the beginning of time to the Effective Date of this Agreement relating to their employment with Releasees and specifically to the claims in the Litigation including but not limited to the Fair Labor Standards

Act 29 U.S.C. § 201, et. seq., New York State Labor Law §§ 191, 193, 196-d, 198-b, 650, et. seq., 652, and 663 and relevant sections of N.Y. Comp. Codes R. & Regs, New York City Labor Law, liquidated damages, compensatory damages, punitive damages, wages, tips, penalties of any nature whatsoever that have occurred as of the Effective Date of this Agreement.

**3. Full Settlement and Release.** Plaintiffs represent and acknowledge that the amounts set forth in paragraph 1 above represent fair consideration for the Plaintiffs' releases and other obligations under this Agreement, and Plaintiffs specifically acknowledge that upon receipt of the sums set forth in paragraph 1 hereof, Plaintiffs are not entitled to any additional payment for wages or other compensation from Defendants.

**4. No Admission of Wrongdoing:** This Agreement and compliance with this Agreement shall not be construed as an admission by Defendants of any liability whatsoever, or of any violation of any statute, regulation, duty, contract, right or order.

**5. No Future Employment:** It is agreed that the employee-employer relationship between Plaintiffs and Defendants ended for reasons unrelated to any federal, state, or municipal statute or any cause of action Plaintiffs, or any of them have or may have had against Defendants. It is further understood should Plaintiffs, or any of them, again apply to work for Defendants, in any capacity, Defendants, based on this clause, may deny such Plaintiffs employment for any position such Plaintiffs seeks, and that Plaintiffs will not assert that such denial is a violation of any federal, state or municipal statute and/or common law right or is retaliatory in any way. Accordingly, it is agreed that none of the Plaintiffs will knowingly seek employment with Defendants after the execution of this Agreement.

**6. Modification of the Agreement:** This Agreement may not be changed unless the changes are in writing and signed by a proper representative of Plaintiffs and Defendants.

**7. Acknowledgment:** It is further understood and agreed that the sum of \$22,000.00 and the other good and valuable consideration provided for herein, are not a mere recital but are the consideration for this Agreement and all terms herein, and the full and final release effected thereby. Plaintiffs hereby represent and warrant that they entered into this Agreement of their own free will and accord, and in accordance with their own judgment. Plaintiffs further acknowledge that they have been fully and fairly represented by counsel in this matter. Plaintiffs, after consultation with their attorney, Michael Faillace, Esq. of Michael Faillace & Associates P.C., hereby state that they and their counsel have made a full and independent investigation of all the facts and representations relating to this Agreement, and therefore state that they have not been induced to enter into this Agreement by any statement, fact or representation of any kind or character on the part of Defendants, or on the part of Defendants' agents, attorneys, servants, employees or representatives other than those specifically set forth herein. Plaintiffs specifically acknowledge that the parties jointly prepared this Agreement and that they are executing this Agreement knowingly and voluntarily.

Plaintiffs further confirm that this Settlement Agreement and Release has been translated to them in Spanish and that they understand the terms of this Agreement and that they are signing this Agreement voluntarily. YO RECONOZCO QUE ESTE CONTRATO HA SIDO TRADUCIDO EN ESPANOL, MI PRIMER LENGUAJE

8. **Notices:** Notices required under this Agreement shall be in writing and shall be deemed given on the first business day following first-class mailing and electronic transmission thereof. Notice hereunder shall be delivered to:

To Plaintiffs:

Michael Faillace, Esq.  
**MICHAEL FAILLACE & ASSOCIATES, P.C.**  
60 East 42<sup>nd</sup> St. Suite 4510  
New York, NY 10165  
Tel: (212) 317-1200  
Fax: (212) 317-1620  
Email: michael@faillacelaw.com

To Defendants:

Mark E. Spund  
Davidoff Hutcher & Citron LLP  
200 Garden City Plaza, Suite 315  
Garden City, NY 11530  
Tel: 516-248-6400  
Fax: 516-248-6422  
Email: mes@dmlegal.com

9. **Governing Law and Venue:** This Agreement shall be governed by, and interpreted in accordance with, the laws of the State of New York, excluding the conflict-of-laws principles thereof. The parties consent and stipulate to the personal jurisdiction of the United States District Court for the Eastern District of New York in any subsequent proceeding to enforce this Agreement.

10. **Enforceability:** If any provision of this Agreement is held to be illegal, void, or unenforceable, such provision shall be of no force or effect. However, the illegality or unenforceability of such provision shall have no effect upon, and shall not impair the legality or enforceability of, any other provision of this Agreement, provided, however, that upon any finding by a court of competent jurisdiction that a release or waiver of claims or rights or a covenant set forth herein is illegal, void or unenforceable, Plaintiffs agree to promptly execute a release, waiver and/or covenant that is legal and enforceable..

11. **Counterparts:** To signify their agreement to the terms of this Agreement and Release, the parties have executed this Agreement on the date set forth opposite their signatures, which appear below. This Agreement may be executed in two or more counterparts and each of such counterparts, for all purposes, shall be deemed to be an original but all of such counterparts together shall constitute but one and the same instrument, binding upon all parties

hereto, notwithstanding that all of such parties may not have executed the same counterpart. This agreement may also be executed by facsimile transmission.

PLAINTIFFS:

By: ARTURO OSORNO  
ARTURO OSORNO

Date: Nov 5, 2019

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

By: \_\_\_\_\_ Date: \_\_\_\_\_  
JOSE MANUEL PASTRANA

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

By: Fernando Perez Garcia  
FERNANDO PEREZ GARCIA

Date: 11/11/19

STATE OF NEW YORK )  
                        )SS.:  
COUNTY OF             )

On \_\_\_, 2019 before me personally came to me Fernando Perez Garcia known and known to me to be the individual described in, and who executed the foregoing Settlement Agreement and General Release, and duly acknowledged to me that he executed the same.

NOTARY PUBLIC-STATE OF NEW YORK  
No. 02FA6120964  
Qualified In New York County  
My Commission Expires January 03, 2021

\_\_\_\_\_  
Notary Public

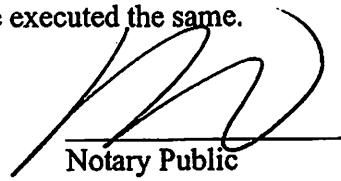
By: Samuel Lopez Montalvo

Date: 10/30/19

STATE OF NEW YORK      )  
                        )SS.:  
COUNTY OF                )

On 10/30/2019 before me personally came to me Samuel Lopez Montalvo known and known to me to be the individual described in, and who executed the foregoing Settlement Agreement and

General Release, and duly acknowledged to me that he executed the same.



Notary Public

**YOLANDA RIVERO  
NOTARY PUBLIC STATE OF NEW YORK  
NO. 02R16061584  
QUALIFIED IN QUEENS COUNTY  
COMMISSION EXPIRES JULY 16, 2023  
DEFENDANTS:**

By: \_\_\_\_\_  
AVANT GARDNER LLC.

Date: \_\_\_\_\_

STATE OF NEW YORK      )  
                              )SS.:  
COUNTY OF                )

On \_\_\_\_\_, 2019 before me personally came to me \_\_\_\_\_ known and known to me to be the individual described in, and who executed the foregoing Settlement Agreement and General Release, on behalf of AVANT GARDNER LLC and duly acknowledged to me that he executed the same.

Notary Public

By: \_\_\_\_\_  
AGDP HOLDING INC..

Date: \_\_\_\_\_

STATE OF NEW YORK      )  
                              )SS.:  
COUNTY OF                )

On \_\_\_\_\_, 2019 before me personally came to me \_\_\_\_\_ known and known to me to be the individual described in, and who executed the foregoing Settlement Agreement and General Release, on behalf of AGDP HOLDING, INC. and duly acknowledged to me that he executed the same.

Notary Public

By: \_\_\_\_\_  
BENJAMIN ROSHIA

Date: \_\_\_\_\_

STATE OF NEW YORK      )  
                              )SS.:  
COUNTY OF                )

On \_\_\_\_, 2019 before me personally came to me Benjamin Roshia known and known to me to be the individual described in, and who executed the foregoing Settlement Agreement and General Release, and duly acknowledged to me that he executed the same.

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Notary Public

By: \_\_\_\_\_  
STANISLAV CHIJK

Date: \_\_\_\_\_

STATE OF NEW YORK      )  
                                )SS.:  
COUNTY OF                 )

On \_\_\_\_, 2019 before me personally came to me Stanislav Chuik known and known to me to be the individual described in, and who executed the foregoing Settlement Agreement and General Release, and duly acknowledged to me that he executed the same.

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Notary Public

Signature:   
ARTURO OSORNO (Nov 5, 2019)

Email: ajosorno218@gmail.com